

### **REMARKS**

This responds to the Office Action mailed on March 9, 2004.

Claims 1, 2, 3, 13, 15 and 16 are amended; as a result, claims 1-6, 13-20, and 30-46 are now pending in this application.

### **Withdrawn Claims**

Page 1 of the Office Action states that claims 45 and 46 are rejected. Page 2 of the Office Action states that claims 45 and 46 are withdrawn from consideration by the Examiner.

Clarification of the status of claim 45 and 46 in the next official communication is requested.

Applicant is proceeding under the assumption that claims 45 and 46 are withdrawn.

### **§103 Rejection of the Claims**

Claims 1-3, 13-16 were rejected under 35 USC § 103(a) as being unpatentable over Snell (U.S. Patent No. 5,716,382) or Mann et al. (U.S. Patent No. 5,891,178, “Mann”). Applicant respectfully traverses the rejection because the proposed combination of either Snell or Mann with what was known in the art at the time the invention was made does not teach or suggest all of the elements of the contested claims.

The Office Action admits that neither Snell nor Mann discloses selecting among ventricular pacing sites, using the QRS duration interval as the first data value, to suggest a pacing site in the ventricles and to display an estimated time to completion of the algorithm (see Office Action page 3). The Office Action asserts that the missing elements were known in the art at the time the invention was made. Applicant respectfully traverses the assertion of what was known in the art and requests that the Examiner provide references describing the missing elements. Absent the references, it appears that the Examiner is using personal knowledge, so the Examiner is requested to provide an affidavit as required by 37 C.F.R. § 1.104(d)(2).

Additionally, Applicant is unable to find, among other things, determining a duration of a QRS complex; selecting among ventricular pacing sites in which to provide pacing pulses from one or more algorithms using at least the duration of a QRS complex and a timing relationship

between the right and left depolarizations; and displaying at least one suggested ventricular pacing site in which to provide pacing pulses, as recited in claim 1.

Further, Applicant is unable to find, a data input for receiving a duration interval of a QRS complex from a pulse generator; control circuitry for using the duration interval of a QRS complex and a timing relationship between right and left ventricle depolarizations to select among ventricular pacing sites in which to provide pacing pulses; a display screen to display at least one suggested ventricular pacing site in which to provide pacing pulses; and an input to initiate programming the suggested ventricular pacing site in which to provide pacing pulses, as recited in claim 15.

Applicant respectfully requests reconsideration of claims 1-3 and 13-16, and allowance of claims 1-6 and 13-20.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 373-6912 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

PAR LINDH ET AL.

By their Representatives,

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Date

July 9, 2004

By

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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 9 day of July, 2004.

Paula Suchy

Name

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Signature